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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,715	01/28/2005	Karl Haberle	264519US0PCT	7463

22850	7590	11/16/2007
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.		
1940 DUKE STREET		
ALEXANDRIA, VA 22314		

EXAMINER	
NILAND, PATRICK DENNIS	

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
11/16/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20071101

DATE MAILED:


**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

Attached is the PTOL 413, Interview Summary of 11/1/07.

Any inquiry concerning this communication should be directed to Patrick D. Niland at telephone number 571-272-1121.

Patrick D Niland  
Primary Examiner  
Art Unit 1796

  
Patrick D Niland  
Primary Examiner  
Art Unit: 1796

<b>Interview Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/522,715		HABERLE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Patrick D. Niland		1796	

All participants (applicant, applicant's representative, PTO personnel):

(1) Patrick D. Niland.

(3) \_\_\_\_\_.

(2) Harris Pitlick.

(4) \_\_\_\_\_.

Date of Interview: 01 November 2007.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☒ Yes e) ☐ No.

If Yes, brief description: Examples of USPG Publication.

Claim(s) discussed: All.

Identification of prior art discussed: cited.

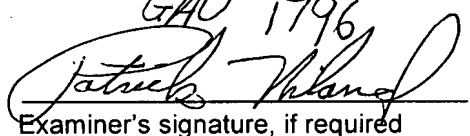
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

PATRICK NILAND  
PRIMARY EXAMINER  
GAU 1796  
  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's newly presented arguments, amendments and cited caselaw have not yet been fully considered but will be in the full course of examination. The applicant's representative stated that the cited caselaw is pertinent to choosing what the showings of unexpected results are required to be based on the teachings of the prior art and the scope of the pending claims. Applicant's representative states that, given the breadth of Hombach relating to what the isocyanate is required to be, the showings of record match the closest prior art. The applicant's representative argues that the examples of Hombach do not use the instantly claimed mixtures. The applicant's representative argues that given the breadth of Hombach's disclosure, the showings of Examples 1 and 2 are commensurate in scope with the instant claims and the closest prior art. The examiner disagrees currently, but will consider the arguments presented and the caselaw cited. The examiner currently emphasizes column 4, lines 6-11 of Hombach, which encompasses the instantly claimed mixtures. The applicant's representative argues regarding the "in situ" portions of Hombach, e.g. column 4, line 49 et seq. The examiner notes "or" and column 4, lines 45-49. The applicant's representative argues that the differences in molecular weight of examples 1 and 2 are not material since component C of the instant claims is the same in both examples 1 and 2. The examiner notes that both ethylene oxide chains of MW 500 and 1000 are expected to be liquids on their own but is unsure how this will affect the properties of the urethanes resulting from the different molecular weights. One might be solid while one might be liquid. It was discussed that the proposed unexpected result relates to hardness. If one molecular weight urethane plasticizes better than the other, it would be expected to make the films it contains softer. Thus, the unexpected result might be a result of the molecular weight differences per se rather than the use of a mixture of the instantly claimed components verses a mixture of HDI and IPDI oligomers that are both partially reacted with ethylene oxide chains. The examiner's ideal would be that both examples use the same molecular weight polyethylene oxide chains in all instances because the examiner cannot tell what effect the different molecular weights per se have. The examiner further notes that the rejections are supported by secondary references which bolster the examiner's rationale for using the instantly claimed mixtures when coupled with the broad language of Hombach for the reasons cited in the rejections. The applicant's representative reiterated that he did not feel the examiner's requirement was consistent with what the applicant was required to show given the breadth of Hombach. The examiner noted that he would ideally like comparisons in which the polyethylene oxide molecular weights did not differ. The examiner does not rule out that there are other ways to overcome this issue. Perhaps, the applicant can show via declaration/probative evidence that the different molecular weights are not responsible per se for the proposed unexpected result.